

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
EDWARD REICHERTER,

Plaintiff,

-against-

THE TOWN OF HEMPSTEAD,

Defendant.
-----X

15-cv-3879
(JMA)

**Declaration of Donna A.
Napolitano in Support of
Defendant's Motion for
Summary Judgment**

DONNA A. NAPOLITANO, an attorney admitted to practice in the district court for the Eastern District of New York, declares pursuant to 28 U.S.C. § 1746, under the penalty of perjury, as follows:

1. The undersigned is a partner at Berkman, Henock, Peterson, Peddy & Fenchel, P.C. and is Special Counsel to Defendant, the Town of Hempstead ("Town" or "Town Defendant"), in the above referenced action, and as such, is fully familiar with the facts and circumstances set forth herein.
2. This Declaration ("Dec.") and the attached exhibits are being submitted in support of the Town's Motion for Summary Judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure ("Motion").
3. Attached hereto as **Exhibit "A"** is Plaintiff's Complaint dated July 2, 2015.
4. Attached hereto as **Exhibit "B"** is Town Defendant's Answer dated July 15, 2016.

5. Attached hereto as **Exhibit "C"** are the relevant pages from the deposition transcript of Plaintiff Edward Reicherter conducted on August 20, 2018.

6. Attached hereto as **Exhibit "D"** are the relevant pages from the deposition transcript of Anthony Santino conducted on October 17, 2018.

7. Attached hereto as **Exhibit "E"** are the relevant pages from the deposition transcript of Joseph Albert Bentivegna conducted on September 25, 2018.

8. Attached hereto as **Exhibit "F"** are the relevant pages from the deposition transcript of Michael J. Zappolo conducted on August 14, 2018.

9. Attached hereto as **Exhibit "G"** are a collection of Town of Hempstead, Department of Parks and Recreation, Personal Action Requests, bates stamped as TOH-REICH. 00215, 00218, 00222 and 00226.

10. Attached hereto as **Exhibit "H"** are a collection of Town of Hempstead, Department of Parks and Recreation, Personal Action Requests, bates stamped as TOH-REICH. 00229, 00233 and 00241.

11. Attached hereto as **Exhibit "I"** is the Town of Hempstead, Department of Parks and Recreation, Full Time Transfer Record For Edward Reicherter, bates stamped as TOH-REICH. 00180.

12. Attached hereto as **Exhibit "J"** is the Town of Hempstead, Department of Parks and Recreation, Inter-Departmental Memo dated April 15, 2011, bates stamped as TOH-REICH. 00242.

13. Attached hereto as **Exhibit "K"** is the Town of Hempstead, Department of Parks and Recreation, Inter-Departmental Memo dated January 10, 2012, bates stamped as TOH-REICH. 00435.

14. Attached hereto as **Exhibit "L"** is the Town of Hempstead, Department of Parks and Recreation, Inter-Departmental Memo dated May 21, 2012, bates stamped as TOH-REICH. 00244.

15. Attached hereto as **Exhibit "M"** is the Town of Hempstead, Department of Parks and Recreation, Inter-Departmental Memo dated March 9, 2010, bates stamped as TOH-REICH. 00523.

16. Attached hereto as **Exhibit "N"** is the Town of Hempstead, Department of Parks and Recreation, Inter-Departmental Memo dated March 25, 2011, bates stamped as TOH-REICH. 00527.

17. Attached hereto as **Exhibit "O"** is the Town of Hempstead, Department of Parks and Recreation, Notice of Discipline and Charges dated November 9, 2009, bates stamped as TOH-REICH. 00210-00211.

18. Attached hereto as **Exhibit "P"** is the Town of Hempstead, Department of Parks and Recreation, Inter-Departmental Memo dated July 12, 2010, bates stamped as TOH-REICH. 00525-00526.

19. Attached hereto as **Exhibit "Q"** is the Town of Hempstead, Department of Parks and Recreation, Inter-Departmental Memo dated October 4, 2012, bates stamped as TOH-REICH. 00529-00530.

20. Attached hereto as **Exhibit "R"** is the Town of Hempstead, Department of Parks and Recreation, Notice of Discipline and Charges dated August 27, 2013, bates stamped as TOH-REICH. 00442-00443.

21. Attached hereto as **Exhibit "S"** is the Town of Hempstead, Department of Parks and Recreation, Personal Action Requests, bates stamped as TOH-REICH. 00246-00247.

22. Attached hereto as **Exhibit "T"** are Plaintiff's Town of Hempstead, Department of Parks and Recreation time cards for January, February and March 2013, bates stamped as TOH-REICH. 00193-00197.

23. Attached hereto as **Exhibit "U"** is a Town of Hempstead check in the sum of \$24,484.62 issued to Edward Reicherter, bates stamped as TOH-REICH. 00454.

24. Attached hereto as **Exhibit "V"** is the Opinion and Award of Robert McLaughlin, Esq., Arbitrator, dated May 20, 2014, bates stamped as TOH-REICH. 00252-00261.

25. Attached hereto as **Exhibit "W"** is the Town of Hempstead, Department of Parks and Recreation, Personal Action Request dated May 28, 2014, bates stamped as TOH-REICH. 00249.

26. Attached hereto as **Exhibit "X"** is the Opinion and Award of Robert McLaughlin, Esq., Arbitrator, dated July 16, 2015, issued in response to the Decision and Order of Justice Leonard Steinman, Nassau County Supreme Court.

27. Attached hereto as **Exhibit "Y"** is Resolution No. 875/25-2014 issued by the Town Board for the Town of Hempstead, dated June 10, 2014, bates stamped as TOH-REICH. 00288.

28. Attached hereto as **Exhibit "Z"** is a the Town of Hempstead, Department of Parks and Recreation, Inter-Departmental Memos, dated July 19, 2016 and July 21, 2016, bates stamped as TOH-REICH. 00262-00263.

29. Attached hereto as **Exhibit "AA"** is the Town of Hempstead, Civil Service Commission Announcement for the Promotional Examination for the position of Special Park District Supervisor, bates stamped as TOH-REICH. 00505-00509.

30. Attached hereto as **Exhibit "BB"** is a letter dated January 2, 2015, from the Town of Hempstead's Civil Service Commission to Edward Reicherter, bates stamped as TOH-REICH. 00511.

31. As set forth more fully in the accompanying Memorandum of Law, Defendant Town respectfully submits that an order granting the Motion is warranted.

Dated: Garden City, New York
June 17, 2019

s/s
Donna A. Napolitano